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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-822]

Welded Line Pipe from the Republic of Turkey: Notice of Court Decision Not in Harmony with the Final Determination in the Less Than Fair Value Investigation and Notice of Amended Final Determination and Amended Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 19, 2018, the United States Court of International Trade (CIT or the Court) entered final judgment sustaining the final results of the second remand redetermination pertaining to the antidumping duty (AD) investigation of welded line pipe (WLP) from the Republic of Turkey (Turkey). The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with Commerce's final determination of the AD investigation of WLP from Turkey and that Commerce is amending the final determination and AD order with respect to the weighted-average dumping margins and AD cash deposit rates for Tosçelik Profil ve Sac Endustrisi, A.Ş. and Tosyali Dis Ticaret A.Ş. (collectively, Tosçelik), Çayirova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru İthalat-Ihracat ve Pazarlama A.S. (collectively, Çayirova), and the companies covered by the all-others rate.

DATES: Applicable December 29, 2018.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado and David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4682 and (202) 482-3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 2015, Commerce published its *Final Determination* in the AD investigation of WLP from Turkey.¹ On December 1, 2015, Commerce published the *Order* resulting from the investigation.² As reflected in Commerce's *Final Determination* and the *Order*, Commerce calculated weighted-average dumping margins of 6.66 percent for Tosçelik, 22.95 percent for Çayirova, and 7.10 percent for all others.³

Tosçelik and Çayirova (*i.e.*, the respondents) filed suit at the CIT to challenge various aspects of Commerce's final determination. On August 22, 2017, the CIT sustained in part, and remanded in part, Commerce's *Final Determination*. Specifically, the Court sustained Commerce's date of sale determination and granted Commerce's request for a voluntary remand to further explain or reconsider the calculation of the duty drawback adjustments for the respondents.⁴ On March 1, 2018, Commerce issued the First Remand Redetermination, in which it provided further explanation regarding why Commerce limited the duty drawback adjustments in the *Final Determination* to information contained only on import certificates (also known as

¹ See *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015) (*Final Determination*) and accompanying Issues and Decision Memorandum (IDM).

² See *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015) (*Order*).

³ See *Final Determination*, 80 FR at 61364; *Order*, 80 FR at 75,057. The cash deposit rates reflect an adjustment for export subsidies for each respondent found in the final determination of the companion countervailing duty investigation of WLP from Turkey.

⁴ See *Tosçelik Profil ve Sac Endustrisi, A.S. v. United States*, 256 F. Supp. 3d 1260 (CIT August 22, 2017).

“DIIBs”) that were closed during the period of investigation (POI).⁵

After considering Commerce’s further explanation, on October 24, 2018, the CIT held that Commerce’s limitation of the duty drawback adjustments to information contained only on DIIBs closed during the POI was not reasonable based on the specific record of this case (which contained verified information on DIIBs closed after the POI).⁶ The Court remanded the case and directed Commerce to recalculate the duty drawback adjustments for Tosçelik and Çayirova to account for one additional DIIB for each of the respondents.⁷

On December 7, 2018, Commerce issued the Second Remand Redetermination in accordance with the CIT’s order.⁸ On remand, Commerce, recalculated the duty drawback adjustments for Çayirova and Tosçelik to include information from DIIBs that were closed after the POI. As a result, the estimated weighted-average dumping margin for Çayirova becomes 12.52%; and for Tosçelik becomes 4.10%. The all-others rate becomes 4.33%.

On December 19, 2018, the CIT entered judgment sustaining Commerce’s *Final Redetermination* with respect to the date of sale determination and sustaining the Second Remand Redetermination with respect to the duty drawback adjustments.⁹ Thus, the effective date of this notice is December 29, 2018.

⁵ See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 15-00339 (March 1, 2018) (First Remand Redetermination), available at <https://enforcement.trade.gov/remands/17-107.pdf>.

⁶ See *Tosçelik Profil ve Sac Endustrisi, A.S. v. United States*, Consol. Court No. 15-00339, Slip Op. 18-148 (CIT October 24, 2018).

⁷ See *id.*

⁸ See Final Results of Second Redetermination Pursuant to Court Remand, Consol. Court No. 15-00339 (December 7, 2018) (Second Remand Redetermination).

⁹ See *Tosçelik Profil ve Sac Endustrisi, A.S. v. United States*, Consol. Court No. 15-00339, Slip Op. 18-174 (CIT December 19, 2018).

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the Court of Appeals for the Federal Circuit (Federal Circuit) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.¹² The CIT’s December 19, 2018, judgment constitutes a final decision of that court that is not in harmony with Commerce’s *Final Determination and Order*. Thus, this notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Determination and Amended Order

Because there is now a final court decision, Commerce is amending its *Final Determination and Order* with respect to the weighted-average dumping margins and AD cash deposit rates for Çayirova, Tosçelik, and the companies covered by the all-others rate. The revised weighted-average dumping margins and cash deposit rates for these entities are as follows:

Exporter/Producer	Weighted-Average Dumping Margin (percent)	Cash Deposit (percent)
Çayirova Boru Sanayi ve Ticaret A.S./ Yücel Boru İthalat-Ihracat ve Pazarlama A.S.	12.52	11.66
Tosçelik Profil ve Sac Endustrisi A.S./ Tosyali Dis Ticaret A.S.	4.10	3.24

¹⁰ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹² See sections 516A(c) and (e) of the Act.

All Others	4.33	3.47
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Note: The cash deposit rates listed above are adjusted to account for the applicable export subsidy rate of 0.86 percent found in the final determination of the companion countervailing duty investigation of this merchandise imported from Turkey.¹³

Cash Deposit Requirements

Because the above-referenced exporters/producers do not have superseding cash deposit rates, *i.e.*, there have been no final results published in subsequent administrative reviews, Commerce will instruct U.S. Customs and Border Protection (CBP) to collect the revised cash deposit amounts listed above for Çayirova, Tosçelik, and companies covered by the all others rate, effective, December 29, 2018.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), and 777(i)(1) of the Act.

Dated: February 12, 2019.

Christian Marsh,

Deputy Assistant Secretary

for Enforcement and Compliance.

¹³ See Order, 80 FR at 75057-58.

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